

The Struggle for Truth in Honduras

The Truth and Reconciliation Commission vs. the True Commission

In the aftermath of the June 28, 2009 coup d'état in Honduras, the Organization of American States (OAS) designated then-Costa Rican President Oscar Arias as mediator between the coup regime and the ousted government to reach a diplomatic resolution to the political crisis. The establishment of a truth commission became part of a 12-point plan in what is known as the San Jose Accord and a pre-requisite for Honduras to gain readmittance to the OAS and recognition by many governments, including the United States. The San Jose Accord was signed by both ousted President Manuel Zelaya and de facto President Roberto Micheletti. However, failure to fulfill two important provisions of the accord – the restoration to power of President Manuel Zelaya for the remainder of his presidential term and the inclusion of Zelaya's ousted government in the formation of a unity government– led Zelaya to declare the accord null and void. Nonetheless, the de facto presidents who have illegitimately held power since the ouster of Zelaya, first Michiletti and now Porfirio 'Pepe' Lobo, have gone forward implementing other provisions of the accord such as the formation of a Truth Commission.

The Truth and Reconciliation Commission (CVR for its acronym in Spanish) was formed on April 13, 2010. Honduran and international human rights organizations immediately criticized the CVR for its lack of compliance with international standards for truth commissions. These concerns prompted the Human Rights Platform of Honduras and other civil society groups to create an alternative truth commission that they agreed to call the True Commission "Comisión de Verdad" (CDV for its acronym in Spanish).

International Standards and Best Practices for Truth Commissions

In essence, the objective of establishing a truth commission is to publicly establish an accurate historical record that clearly apportions responsibility for human rights violations and democratic ruptures as a necessary precursor to accountability and collective healing. The international community has set out principles and best practices for an effective truth commission. According to the Office of the United Nations High Commissioner for Human Rights' (OHCHR) guidelines for transitional justice, certain components are critical for truth commissions to aid in a successful transition.

The principle recommendations include:

- A commission should be conducted with "transparency, political commitment, and public debate."
- A commission should develop its mandate and select its commissioners with the input of civil society and victims. Broad, national involvement is believed to build support for a commission and ensure that national needs, strengths and opportunities are met.
- Once the commission has completed the investigation, it is important that the findings are immediately made widely available throughout the country.

Recommendations should then be provided to the State based on the truth commission's findings. The State should formally acknowledge the recommendations and install mechanisms to fully implement them. The International Center for Transitional Justice (ICTJ), an international organization whose mission is to confront legacies of mass abuse and has extensive experience working on truth commissions, has stated that truth commissions should incorporate, "human rights organizations and victims' groups, but also grassroots organizations (particularly those that are gender specific), professional and academic organizations (including universities and research units), political actors, and citizens." The ICTJ has also highlighted the process of open decision making; they strongly discourage any closed door decision making or establishing a truth commission through executive decree.

The ICTJ has described civil society as the "'essential ingredient' in a truth commission for its ability to participate in and improve the process at all stages, from initial debate to implementation of recommendations."

The Truth and Reconciliation Commission (CVR) does not comply with international standards

Article 1 of the de facto government's Executive Decree, establishes the CVR as "an entity with operational, administrative, technical, and financial independence, for the purpose of clarifying the events that occurred before and after June 28, 2009, in order to identify the acts that led to the crisis situation and to give the Honduran people information that will help

them to prevent a situation of this sort from recurring in the future.”

In contrast to international recommendations, the CVR was established by presidential decree allowing for the executive to reserve the ultimate authority to determine the structure of the CVR and the participants in the process.

The mandate does not acknowledge that a coup d'état took place in Honduras and omits any mention of human rights abuses occurring during or after the coup. After visiting Honduras in mid-May 2010, the Inter-American Commission on Human Rights (IACHR), which derives its mandate from the OAS Charter and the American Convention on Human Rights, agreed, calling for Honduras to ensure that the CVR include as a centerpiece of its mission the “investigation of human rights violations alleged to have occurred in the context of the coup d'état.” Additionally, the ICTJ noted that, “Unfortunately, in Honduras the decision to establish the commission seems to have more to do with a hasty desire to turn the page, rather than clarifying last year’s disruption of democracy and the serious crimes that took place.”

The CVR is comprised of two Honduran and three international representatives. All the members of CVR were selected at the discretion of the de facto President despite international standards that require civil society to participate in the selection process of members of a truth commission. The Commission is headed by former Guatemalan Vice-President Eduardo Stein. The other international representatives are Maria Amadilla Zavala, former President of the Supreme Court of Peru and Canadian career diplomat and lawyer Michael Kergin. Current and former rectors of the National Autonomous University of Honduras (UNAH), Jorge Omar Casco and Julietta Castellanos, respectively, make up the Honduran nationals of the commission. The announcement of the CVR commissioners was met with protests regarding the members’ lack of background in human rights.

Article 14 of the CVR’s decree authorizes the commissioners to “select and separate those documents and materials that are confidential in nature” to be transferred for safe-keeping, “without revealing their contents for ten years.” The decree does not explain what information will fall into this category and be withheld from the public.

The True Commission

The Human Rights Platform of Honduras launched an alternative commission on June 28, 2010, the one year anniversary of the coup. The alternative commission, named the True Commission or *Comisión de Verdad* (CDV), was created to respond to the Honduran people’s demand for a thorough and independent commission and to the inadequacies of the CVR. The work of the commission will investigate human rights violations, including through extensive interviews with the victims. It intends to make a full analysis of why the coup occurred and explore the historical significance of the overthrow of Zelaya.

The CDV is committed to adhering to international standards. According to the CDV’s published mandate the CDV “will carry their work out with impartiality, objectivity and according to the principles and best practices of the United Nations.” Their mandate and objectives have been formulated through an open decision making process that has involved civil society, victims and academics. The commissioners and all personnel selected to conduct the investigations and formalize the report include individuals from a broad spectrum of achievements and career paths, including judges, leaders from human rights non-governmental organizations, academics, religious leaders and lawyers.

The commissioners are: Nobel Peace Prize Laureate Adolfo Pérez Esquivel, Salvadoran Supreme Court Justice Mirna Antonieta Perla, Founder of the Madres de Plaza de Mayo Nora Morales de Cortiñas, Ecuador Truth Commission member and human rights defender Sister Elsie Monge, Laureate of Honduras’ National Prize for Literature Helen Umaña, renowned Honduras human rights defender Father Fausto Milla Nuñez, Director of the Nathanson Centre on Transnational Rights Craig Scott, Spanish Magistrate and leader of Judges for Democracy Luis Carlos Nieto, and past President of the UN Human Rights Committee Francisco José Aguilar Urbina. Unlike the CVR Commissioners, the CDV commissioners all have expertise in the defense of human rights. According the CDV’s published “Procedural Norms for the True Commission,” their commissioners “will guarantee that their procedures will be transparent and legitimate and that the Commission will operate in full independence.”

The Center for Constitutional Rights is representing the CDV in using the United States’ Freedom of Information Act (FOIA) to request materials from the United States government regarding Honduras in order to support its efforts to establish genuine truth and reconciliation.